IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 1756 of 2005

Between:

D. Nagaraju, S/o. Appanna, Mandal Parishad Development Officer, ICHAPURAM, Srikakulam District (Andhra Pradesh).

... PETITIONER

AND

1 The Commissioner of Panchati Raj and Rural Employment,
Government of Andhra Pradesh, Hyderabad.
2 State of Andhra Pradesh, Rep. by its Secretary to Government, Panchayati Raj & Rural Development Department, Andhra Pradesh, Secretariat, Hyderabad.
3 The Chief Executive Officer, Zilla Parishad, Srikakulam, Srikakulam District.

.RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more in the nature of Writ of Certiorari or otherwise declaring the memo No. 5809/CPR/VS4/02
dated 2-7-2002 issued by the 1st respondent as arbitrary, illegal, unconstitutional violating Article 14, 21 of the Constitution of India, including the orders of the Hon'ble Tribunal in O.A.No.11294 of 2002 dated 3-1-2003 and consequential directions directing the respondents to fix the pay of the

petitioner in the revised pay scale of 1999 and release the increments due to the Petitioner and treat the period from 27-12-2000 to 2-2-2001 as compulsory wait.

Counsel for the Petitioner: MR.P.V.KRISHNAIAH

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following :

ORDER: (Per JC,J)

The writ petition is filed with a prayer as follows:

> *".. the High Court may be pleased to issue a writ, order or direction, more in the nature of Writ of Certiorari or otherwise*

declaring the memo No. 5809/CPR/VS4/02, dated 2-7-2002, issued by the 1st respondent as arbitrary, illegal, unconstitutional violating Article 14, 21 of the Constitution of India, including the orders of the Hon'ble Tribunal in O.A.No.11294 of 2002 dated 3-1-2003 and consequential directions directing the respondents to fix the pay of the petitioner in the revised pay scale of 1999 and release the increments due to the Petitioner and treat the period from 27-12-2000 to 2-2-2001 as compulsory wait."

The petitioner was working as a Mandal Parishad Development Officer. While so, on 06.03.1998, the petitioner was kept under suspension on the ground that an Anti-Corruption Bureau case was registered and pending against the petitioner. However, by the proceedings, dated 26.12.2000, the petitioner was reinstated into service. We are informed that it was in view of a Government Order, G.O.Ms.No.86, G.A.D., dated 08.03.1994. We are also informed that the criminal case against the petitioner is still pending. Subsequently, the petitioner was posted by the proceedings dated 30.01.2001 as M.P.D.O. Ichapuram and he joined the same on 03.02.2001. In the interregnum, the pay scales relevant to the service of the petitioner came to be revised and on joining the service, the petitioner made a representation requesting that his pay be fixed as per the revised pay scales. His representation was rejected by the proceedings, dated 02.07.2002, of first respondent herein informing him that his request would be examined after the finalization of the A.C.B. case pending against him. Aggrieved by the same, the petitioner approached the A.P. Administrative Tribunal by O.A.No.111294 of 2002, which came to be disposed of by an order, dated 03.01.2003 without any relief to the petitioner. Hence, the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

We fail to understand the impugned proceedings inasmuch as it advised the petitioner to await the result of the criminal case pending against him for the purpose of the fixation of pay as per the pay scales applicable for the class of post to which he belongs. The moment the petitioner is reinstated into service,

all the necessary incidents of the service must automatically follow. Nothing is brought to our notice to establish that an employee of the State, either of Class-2 ,to which the petitioner belongs or of any other class is not entitled to receive the pay in accordance with the relevant scales of pay applicable merely on the ground that there is a criminal case, be it a anti-corruption case or some other case pending against him.

It appears, one more facet of the case is that pursuant to the order of the reinstatement the petitioner was allotted to Zilla Parishad, Srikakulam. On such allotment, the petitioner approached the 3rd respondent herein requesting him for a posting on 27.12.2000. But the 3rd respondent allotted and posted the petitioner as M.P.D.O., Ichapuram only on 30.01.2001 i.e. almost after a lapse of one month and four days. Therefore, the petitioner also prayed in O.A. that the period between 27.12.2002 to 30.01.2001 be treated as a period of compulsory wait. No reason, whatsoever, is brought to our notice by the respondents for the delay in giving the posting orders nor any other material is brought to our notice that the prayer of the petitioner in this regard is unsustainable.

The Tribunal, in our view, grossly erred in declining to grant the relief to the petitioner. The writ petition is, therefore, allowed directing the respondents to fix the pay of the petitioner in accordance with the appropriate pay scale applicable to the post in which the petitioner has been working from the date of his reinstatement and also treat the period between 27.12.2000 to 30.01.2001 as a period of compulsory wait. In the circumstances, no order as to costs.

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J.CHELAMESWAR, J.

Date: 16.06.2005.

M.VENKATESWARA REDDY, J.

GS

To

1 The Commissioner of Panchati Raj and Rural Employment,
Government of Andhra Pradesh, Hyderabad.

2 The Secretary to Government, Government of A.P., Panchayati Raj & Rural Development
Department, Andhra Pradesh, Secretariat, Hyderabad.

3 The Chief Executive Officer, Zilla Parishad,
Srikakulam, Srikakulam District.

4 Two CCs to the G.P. for Services-I, High Court of A.P., Hyderabad (O.U.T.)

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